(6)
(7)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR: C.G.
M.A. No.642 Of 2005

Division Bench

MISCELLANEOUS APPEAL UNDER SECTION 173, MOTOR VEHICLES ACT, 1988

Appellant:
Non applicant no.3 United India Insurance Co. Ltd.,
Through Branch Manager,
Rajnandgaon Branch,
District Rajnandgaon (C.G.)

Versus

Respondents: 1) Ramratan S/o Bishesar Dhobi, aged about 40 years,Occupation Driver,
R/o village Lodhi Kampa,
Thana Khamaria, District Durg,
Hal Mukam village Saja Thana & Tahsil Saja,District Durg (C.G.)

2) Bhagwandas S/o Narayandas Maheshwari,
aged about 42 years,
R/o village Saja,Tahsil & Thana Saja,
District Durg (C.G.) **Non-pplicants 1 & 2**

3) Rohit S/o Roopchand Satnami,
aged about 19 years,

4) Suraj S/o Roopchand, aged about 17 years,

5) Surjabai D/o Roopchand aged 15 years,

6) Parshottam S/o Roopchand, aged 12 years,
7) Jankibai D/o Roopchand, aged 8 years
8) Ku.Laxmi D/o Roopchand, aged 5 years,

All Minors through Guardian Wali Father
Roopchand S/o Kaladas Satnami,
aged about 37 years.

9) Roopchand S/o Kaladas Satnami, aged 37 years,

All R/o village Janta, Thana & Tahsil Saja,
District Durg (C.G.) **Claimants**

P.R. No.....
Presented by Shri .....
dated.....

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.No.842 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05/02/2007

Shri Sanjay S. Agrawal, counsel for the appellant.

Shri Hemanth Gupta, counsel for the respondents No. 1 and 2.

Ms. Pushpa Dwivedi, counsel for respondents No. 3 to 9.

Heard.

The only ground on which the award dated 28.01.2005 is impugned by the learned counsel for the appellant is that the evidence led by the claimants establishes that at the time of accident the tractor trolley was being used for transporting bricks i.e. in breach of the policy of the insurance.

I have perused the evidence led by the claimants/respondents No. 1 and 2 as also by the appellant/non-applicant No. 3. It clearly shows that the accident did not occur when the tractor trolley was transporting bricks but had occurred after emptying the bricks transported when the tractor trolley was, after filling diesel, returning while carrying the agricultural labour. The testimony of the sole witness for the respondents i.e. Ram Ratan, the driver of the offending tractor in para 6 also goes to show that the deceased Jugri Bai who was travelling in the tractor trolley was a labourer employed for agricultural purpose by the owner of the tractor Bhagwan Das i.e. respondent No. 2. No evidence was led by the appellant/insurer to establish that at the time of the accident, the

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(36) (37)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Priya	tractor trolley was being used in breach of the policy of the insurance. In this view of the matter, the impugned award fastening liability on the insurer to pay compensation is impeccable. The appeal being devoid of merit is dismissed. There shall be no order as to costs. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	